

Message

From: Yannayon, Laura [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=0EC245483F2D4762801CD01D01220F92-LYANNAYO]
Sent: 5/21/2019 11:27:52 PM
To: Sutkus, Carol@ARB [carol.sutkus@arb.ca.gov]
CC: Stephanie Parent (Stephanie.Parent@arb.ca.gov) [Stephanie.Parent@arb.ca.gov]; Ariel Fideldy (afideldy@arb.ca.gov) [afideldy@arb.ca.gov]
Subject: FW: Next Steps for Rule 3.25
Attachments: B.4 EPA ltr to SC 5-10-18.pdf; B.5 SCAQMD Commit ltr 6-26-18.pdf; B.6 CARB Commit ltr 7-16-18.pdf; C.12 Letter from EPA to SDAPCD re NSR Deficiencies.pdf; C.13 Letter from SDAPCD to CARB re NSR Commitment.pdf; C.14 Letter to USEPA Submitting Commitments from SDAPCD.pdf; Model Rule Clean 3-18-19 with IBR definitions.docx; Y-S Rule 3.25 revisions.docx

Here you go. You can see the focus was on discussing the option of a commitment letter from the District.

Laura

From: Yannayon, Laura
Sent: Tuesday, March 26, 2019 12:22 PM
To: Paul Hensleigh <PHensleigh@ysaqmd.org>
Cc: Rios, Gerardo <Rios.Gerardo@epa.gov>; Waldon, MARGARET <Waldon.Margaret@epa.gov>; Christenson, Kara <Christenson.Kara@epa.gov>
Subject: Next Steps for Rule 3.25

Hi Paul,

As we discussed last week, EPA has reviewed your submittal of Rule 3.25 and determined that the rule has two deficiencies that must be corrected before we can fully approve the rule into the SIP. The two deficiencies are listed below. Because each of these deficiencies can be easily addressed with minor revisions to Rule 3.25, EPA believes the best approach would be to proceed with a Limited Approval/Limited Disapproval of the submitted rule. This would approve Rule 3.25 into the SIP and give you up to 12 months to make a revised rule submittal and 6 months for EPA to approve the revision. As I mentioned, EPA has received a Notice of Intent to Sue, listing our failure to implement a FIP for the lack of a SIP approved NNSR PM2.5 program in your District. Accordingly, we are hoping you can take a more timely action, say 3-6 months to ensure we can fully approve the rule before any deadline established as part of the upcoming lawsuit.

In the alternative, we could use the conditional approval approach for the current rule submittal. To proceed with a conditional approval, the District would need to write a letter committing to address these two deficiencies. While the letter does not need to contain new rule text, you must at least describe how you intend to correct each deficiency. The letter would also include a commitment to adopt the rule revisions and submit them to ARB within 11 months of EPA's final action on the current Rule 3.25 (I estimate you'd have until late April 2020 to make the submittal.). You would then send this commitment letter to ARB, who would forward it to EPA along with their own commitment letter to make the submittal within 12 months of EPA's final action. Obtaining the necessary commitment letters from both the District and CARB will take a bit of time and delay our current rulemaking process.

In case you want to go the conditional approval route, I've attached recent commitment letters from SD and SC for reference, along with CARBs submittal letters. In addition, I have provided in a word document the two specific provisions that need to be included in Rule 3.25 to satisfy each deficiency. One section, regarding ATC Preliminary Decision Requirements, is straight out of the model rule I provided, so it is not clear why the District did not include it in Rule 3.25. The other section regarding stack heights is new, and can be added to the rule. I've also provided an updated copy of the revised model rule, for your reference.

Here are the two deficiencies, as described in our TSD:

Discussion: Pursuant to 40 CFR 51.160(b), a permit program must provide the District with the authority to prevent construction or modification if a proposed project will (1) cause a violation of the SIP or (2) interfere with attainment or maintenance of a NAAQS.

Discussion: Pursuant to section 173(a)(2), a permit program shall provide that a permit to construct and operate may be issued if the proposed source is required to comply with the lowest achievable emission rate (LAER).

Finding: While Section 300 – Standards, provides all of the criteria applicable to a major source, it only requires the applicant to provide, propose or submit evidence that these requirements have been met in their application. The rule does not contain any provisions to ensure the APCO has evaluated the application and determined that all of these requirements have been met. At a minimum, the rule must provide a provision similar to the one found in Yolo-Solano Rule 3.4 – New Source Review, which requires the APCO to deny an Authority to Construct or Permit to Operate if the APCO finds that the application would not comply with the standards set forth in District, state or federal rules, regulations or statutes.

Discussion: The SIP must include procedures that provide that the degree of emission limitation required of any source for control of any air pollutant must not be affected by so much of any source's stack height that exceeds good engineering practices or by any other dispersion technique, except as provided in 40 CFR 51.118(b). Such procedures must provide that before a permitting agency issues a permit to a stationary source based on a good engineering practice stack height that exceeds the height allowed by 40 CFR 51.100(ii)(1) or (2), the permitting agency must notify the public of the availability of the demonstration study and must provide opportunity for public hearing on it. 40 CFR 51.164 does not require such procedures to restrict in any manner the actual stack height of any stationary source.

Finding: Rule 3.25 does not address this requirement. Therefore, we find the rule deficient because it does not satisfy the requirements of 40 CFR 51.164.

Please feel free to give me a call if you have any questions.

Laura